

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TRANSPARENT ENERGY, LLC,

Plaintiff,

v.

PREMIER MARKETING, LLC,

Defendant.

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Civil Action No. **3:19-CV-3022-L**

ORDER

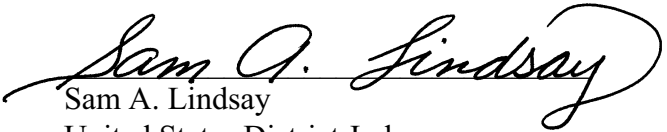
Before the court is Defendant's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(6) and 28 U.S.C. § 1404(a)* (Doc. 7), filed January 13, 2020. On July 28, 2020, the Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") (Doc. 12) was entered, recommending that the court deny Defendant's Motion to Transfer Venue under 28 U.S.C. § 1404(a), and grant in part the Motion to Dismiss under Rule 12(b)(6) with respect to Plaintiff's claims for Texas statutory trademark infringement and dilution and Texas common law unfair competition and misappropriation, but grant Plaintiff's request for leave to amend its pleadings. No objections to the Report were filed; however, Plaintiff filed its First Amended Complaint on August 11, 2020.

Having considered the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, Plaintiff's request to amend its pleadings is **granted**. As Plaintiff has

* Section 1404(a) of Title 28 strictly deals with transfer of venue "[f]or the convenience of the parties and the witnesses." It is not a basis for dismissal of an action, and the court, like the magistrate judge, will treat this portion of the motion as one to transfer venue.

already filed its First Amended Complaint, the court, instead of granting Defendant's Motion to Dismiss under Rule 12(b)(6), **denies without prejudice** the motion. Further, the court **denies** Defendant's Motion to Transfer Venue under 28 U.S.C. § 1404(a).

It is so ordered this 12th day of August, 2020.


Sam A. Lindsay
United States District Judge